

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

CASE № 23-60114-CR-SCOLA

UNITED STATES OF AMERICA,

*Plaintiff,*

vs.

HAVEN CATES, III,

*Defendant.*

**OBJECTION TO THE PRESENTENCE INVESTIGATION REPORT**

**HAVEN CATES III** (hereinafter "**MR. CATES**"), through undersigned counsel, respectfully submits his Objection to the Presentence Investigation Report (hereinafter referred to as "PSR"). In support thereof, **MR. CATES** submits the following:

The PSR recommends a total offense level of forty-two (42) based upon several enhancements, including a five (5) level enhancement pursuant to § 4B1.5(b)(1).<sup>1</sup> **MR. CATES** objects to the five (5) level enhancement which the Parties did not agree to. Although it is acknowledged that the Plea Agreement and any other agreements entered between the parties are not binding on the Probation Office or the Court, it should be noted that paragraph 9 of the Plea Agreement states that the United States and the Defendant agree that the following guideline calculations are applicable in this case:

| DESCRIPTION   | OFFENSE LEVELS |
|---|----------------|
| Greater of the Adjusted Offense Levels                          | 38             |
| USSG § 3D1.4: Increase in Offense Levels Due to Multiple Counts | +2             |

<sup>1</sup> U.S.S.G. § 4B1.5(b)(1) provides: "In any case in which the defendant's instant offense of conviction is a covered sex crime, neither §4B1.1 nor subsection (a) of this guideline applies, and the defendant engaged in a pattern of activity involving prohibited sexual conduct: The offense level shall be 5 plus the offense level determined under Chapters Two and Three. However, if the resulting offense level is less than level 22, the offense level shall be level 22, decreased by the number of levels corresponding to any applicable adjustment from §3E1.1."

|                                 |           |
|---------------------------------|-----------|
| Combined Adjusted Offense Level | 40        |
| Acceptance of Responsibility    | -3        |
| <b>Total Offense Level</b>      | <b>37</b> |

It is respectfully requested that this Honorable Court give full force and effect to the Plea Agreement and apply the agreement and understanding of the parties as set forth therein and as relied upon by the parties, which did not contemplate or include a § 4B1.5(b)(1) enhancement.

WHEREFORE, **MR. CATES**, through counsel, respectfully requests that this Honorable Court will grant the relief sought herein.

Respectfully submitted,

**RABIN & LOPEZ, P.A.**

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*s/ Samuel J. Rabin, Jr.*

**SAMUEL J. RABIN, JR.**

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### **CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 20th day of February 2024, a true and correct copy of the foregoing Objection to the Presentence Investigation Report was furnished via the CM/ECF system to all parties designated to receive the electronic filings in this cause.

*s/ Samuel J. Rabin, Jr.*

**SAMUEL J. RABIN, JR.**